MONTANA LEGISLATIVE HISTORY

Chapter 695 19 79

Bill H _____ S 67 Original bill & history ✓ C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	4-6	C	Hearing Date(s)	1-20	C
	4-12	C			C
		C			C
		C			C
Date Out	4-12	C	DATE OUT	1-20	

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

LC 0422/01

Senate BILL NO. 67

INTRODUCED BY Marilyn Graham Boylan

Max Conover Galt

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT SPRINKLER IRRIGATION FACILITIES FROM TAXATION; AMENDING SECTION 15-6-206, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-206, MCA, is amended to read:

"15-6-206. Irrigation and drainage facilities -- when exempt. (1) All irrigation and drainage facilities, including bonds, rights-of-way, ditches, flumes, pipelines, dams, water rights, reservoirs, and other property of like character shall be taxed as like facilities of the federal and state government; in cases where property taxes apply and where an increase in land value results, such facilities shall be taxed as such land is improved and such land shall be classified for tax purposes as the tax classification law provides.

(2) Sprinkler irrigation systems are exempt from taxation. Such systems include all pipes, hoses, rollers, spray attachments, connectors, pumps, and other items integral to the functioning of a sprinkler irrigation system installed and used on a farm or ranch but exclude underground water distribution lines and other elements of the system sufficiently affixed to land that they become real property."

-End-

46th LEGISLATIVE SESSION

COMMITTEE ON TAXATION

SENATE ILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
22	1/3	1/13	TABLED	2/17					
42	1/3	1/19	TABLED	3/10					
43	1/3	1/19	TABLED	3/14					
50	1/5	1/8	1/8	1/8					
58	1/9	1/16	1/25		1/25				
67	1/5	1/20	1/20			1/20			
71	1/5	1/19	1/19			1/19			
75	1/8	1/11	1/30	1/30					
121	1/16	1/25	TABLED	1/25					
122	1/16	1/22	3/10		3/10				
135	1/31	Transfer.	TABLED	3/16					
142	1/17	1/27	3/21			3/21			
145	1/17	1/22	3/10		3/10				
147	1/18	1/23	1/23			1/23			
158	1/18	1/24	TABLED	3/16					
162	1/18	1/27	1/29			1/29			

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OF MONTANA

(See Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 20, 1979

The sixth meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Turnage.

ROLL CALL: Roll call found all members present with the exception of Sen. Hager, who was excused.

Witnesses who gave testimony are listed on attached Visitors' Register.

CONSIDERATION OF SENATE BILL 67: Senator Manley distributed copies of the recent Supreme Court decision which ruled on a suit brought by taxpayers against the Department of Revenue, State of Montana, regarding the tax exemption of above-ground sprinkler irrigation systems, the subject of SB67. Results of this ruling are attached, see Exh. #1. Sen. Manley, in presenting his bill, said the Department had declared the systems to be machinery and therefore, in a number of counties, taxed as machinery. The Supreme Court ruling, he felt, was not clear enough as regards present law, and he felt if the committee passed SB67, they should clarify present statues in regard to the exemptions.

Mr. Loble, who had represented the taxpayers in their suit against the Department, see Exh. #1, was also a proponent and said the Court's decision was based on a principal of law, that since the law in question would have been unconstitutional, the law was not ever in effect.

Chairman Turnage at this time pointed out that 84-206 was the section that was unconstitutional, and is now 15-206 of the statutes. He said that assuming the bill receives favorable action by the committee, they must renact the section.

Others who appeared in support of the bill were Mr. Hollenback, Mr. Cook and Mr. Dutton, also Mr. Wallace and Mr. Radke. Mr. Jackson gave a brief history of irrigation in the West and stated that even present systems will soon be outmoded as newer and better systems are introduced and taxation of these systems seems unjustified. Mr. Murphy representing a number of farm organizations which claim a total membership of some 80,000 members, also supported the bill, as did Mr. Biggerstaff, who mentioned the fact that sprinkler irrigation makes better use of water supplies and leaves soil in better condition than the older flood irrigation methods, which are presently tax exempt.

Proponents also included: Mr. Ellis, Mr. Morrow, whose testimony is attached, Exh. #2, Mr. Gilbert, Mr. Teigen, Mr. Spilde and Senator Boylan, one of the sponsors of the bill, and Senator Etchart.

Following their testimony Chairman Turnage called for opponents

of the bill and there were none. The meeting was then open for questioning by the witnesses by the committee. Sen. Manley had some figures to show that sprinkling irrigation increased land values, therefore raising classification of the land, thus putting the land in higher tax class, bringing increased taxes to the counties. He felt this compensated in part for loss of revenues if the systems were exempt from taxes.

During the questioning he also submitted testimony reminding the committee that irrigation brought increased trade to an area, through sale of equipment and other related businesses necessary to sale and distribution, maintenance of the systems. He felt these, together with increased land values, more than compensated for revenue losses.

Chairman Turnage noted, for the record: "Mr. Loble, if agricultural land now presently classed as dryland, non-irrigated land has installed upon it a sprinkler irrigation system and the Department of Revenue reclassifies the land to irrigated classification, do you see any possibility that this reclassification will be challenged because of the exemption allowed in this act?"

Mr. Loble: "It is not the intention of this statute to reclassify land for taxing purposes but to exempt sprinkler irrigation systems. Once such a system has been introduced to the land the land will bear a higher land value, which must be reclassified and then taxed accordingly."

It was pointed out that in order for the statute to become law, under the new constitution, paragraph 1 of the bill would have to be underscored, as an amendment.

Sen. Towe thus Moved SB67 Be Amended by Inserting this Paragraph into the Statues. The motion was carried unanimously.

Sen. Towe then Moved SB67, As Amended, Do Pass. Motion was carried unanimously.

Chairman Turnage noted there was ambiguity in the old law and the amendment will clarify that; the old statute referred only to underground systems and not above-ground sprinkler systems. Both systems are exempt, under legislation proposed in SB67.

Following this decision, the meeting was adjourned.

Jean A. Turnage

JEAN A. TURNAGE - CHAIRMAN

Date JAN. 20. 1979

ROLL CALL

SENATE TAXATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SEN. GOODOVER (Vice Chairman)	✓		
SEN. BROWN	✓		
SEN. HAGER			✓
SEN. MANLEY	✓		
SEN. MANNING	✓		
SEN. McCOLLUM	✓		
SEN. NORMAN	✓		
SEN. ROSKIE	✓		
SEN. SEVERSON	✓		
SEN. TOWE	✓		
SEN. WATT	✓		
CHAIRMAN TURNAGE	✓		

Each Day Attach to Minutes.

SENATE

EXH. #1

No. 14150

IN THE SUPREME COURT OF THE STATE OF MONTANA

1978

JOHN BUCHER, et al.,

Plaintiffs and Respondents,

-vs-

POWELL COUNTY, et al.,

Defendants and Appellants.

1-20-79
Re: 80-61

No. 14130

ROBERT JOHNSON,

Plaintiff and Respondent,

-vs-

ROSEBUD COUNTY, et al.,

Defendants and Appellants.

Appealed from: District Courts of the Third and Sixteenth Judicial Districts, Honorable James D. Freebourn and Honorable Alfred B. Coate, Judges presiding.

Counsel of Record:

For Appellants:

R. Bruce McGinnis argued, Dept. of Revenue, Helena, Montana
John S. Forthye, County Attorney, Forsyth, Montana

For Respondents:

Loble, Pauly, Harlen, Picotte and Norris, Helena, Montana
Lester Loble, II argued, Helena, Montana

Submitted: October 12, 1978

and business.

We must encourage economic growth, and wise use of our water.

Lenhill Mt 67 Jan. 20, 1979

Exh #2

My name is Kenneth C Mercer irrigation rancher from Fort Benton, Choteau Co.

I have been an appraiser and classifier in Choteau County 1957-60. I was a Federal Land bank appraiser for six years working on many irrigation projects.

With all the saline seep problems I observed from flood irrigation, everyone should be happy to see the move to sprinkler irrigation.

Sprinkler irrigation taxation restricts the future development of agriculture

SEN.
BILL 67

SENATE TAXATION COMMITTEE

VISITORS' REGISTER

DATE 1-20-79

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPP
Lester H Loble II	Sprinkler Tax Group		X	
Maj John Bucher	Sprinkler Tax Group		X	
John Bucher	Rancher		X	
John Hollenback	Rancher		X	
Max Cook	"		X	
David Dutton	Rancher		X	
Cedar Rapids Ranch William W. Wallace	Rancher		X	
Ed Rachke	Rancher		X	
[illegible]	Dept of Rev			
[illegible]	"			
Peter Jackson	Rancher		X	
Larry Murphy	N.F.O. & Several Farm Org's		X	
Bob Kingenschaft	Montana Conservation District		X	
R. H. Ellis	Helena Valley		X	
[illegible]	Fort Benton		X	
[illegible]	Montana Wool Growers		X	
[illegible]	Mont Stockgrowers Assn		X	
Bud A Suedkamp	Tenneco Coal Co			
[illegible]	[illegible]			
Bob Randall	State Tax Appeal Board			
GENE SPILDE	BIG TIMBER		X	
Paul F Boyle	Senate Dist 32		X	
Mark Eschenbrenner	Senate District 2		X	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

STANDING COMMITTEE REPORT

January 20 19 79

MR. President

We, your committee on Taxation

having had under consideration Senate Bill No. 67

Respectfully report as follows: That Senate Bill No. 67,

introduced bill, be amended as follows:

1. Title, line 4.
Following: "EXEMPT"
Insert: "IRRIGATION, DRAINAGE, AND"

2. Title, line 5.
Following: "TAXATION"
Strike: "; AMENDING SECTION 15-6-206, MCA"

3. Pages 1 and 2.
Strike: all of the bill following the enacting clause
Insert: "Section 1. Irrigation and drainage facilities -- when exempt. (1) All irrigation and drainage facilities, including bonds, rights-of-way, ditches, flumes, pipelines, dams, water rights, reservoirs, and other property of like character shall be taxed as like facilities of the federal and state government; in cases where property taxes apply and where an increase in land value results, such facilities shall be taxed as such land is improved and such land shall be

DO PASS

CONTINUED PAGE 2

Chairman

STATE PUB. CO.
Helena, Mont.

classified for tax purposes as the tax classification law provides.

(2) Sprinkler irrigation systems are exempt from taxation. Such systems include all pipes, hoses, rollers, spray attachments, connectors pumps, and other items integral to the functioning of a sprinkler irrigation system installed and used on a farm or ranch but exclude underground water distribution lines and other elements of the system sufficiently affixed to land that they become real property."

And, as so amended,

Do Pass

JEAN A. TURNAGE - CHAIRMAN

Chairman.

STATE PUB. CO.
Helena, Mont.

SENATE BILLS

1.

HOUSE TAXATION COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 46	To generally revise & clarify the laws concerning state finance; repealing 17-2-203, MCA.	1/16	Roskie	3/29	BE CONCURRED IN	3/30
SB 50	To simplify disposition of the fuel permit fee; amend 15-70-312, MCA.	1/16	Turnage	4/2	BE CONCURRED IN	4/9
SB 71	Establish courses of instruction & examination for DoR appraisers & to require all appraisers to become certified within a year	1/26	Jergeson	3/29	BE CONCURRED IN	4/10
SB 67	Exempt sprinkler irrigation facilities from taxation.	1/27	Manley	4/6	BE CONCURRED IN	4/13
SB 147	Define term 'Poultry' for use in connection with taxation; amend 15-1-101, MCA.	1/30	Hager	2/6	BE CONCURRED IN	2/6
SB 177	Change type of security gas distributors, special fuel dealers, & special fuel users may file with DoR; amend 15-70-202 & 15-70-301.	1/30	Turnage Req. ROversight Committee	4/2	BE CONCURRED IN	4/9

HOUSE TAXATION COMMITTEE
46th Legislature

The committee was called to order on April 6, 1979, at 8:30 a.m., in room 434, Capitol Building, Helena, by Chairman Herb Huennekens. All members attended the hearing except Rep. Fagg who was absent. Randy McDonald, Staff Attorney was present.

Senate bills 67, 174, 463, 248, and Senate Joint Resolution were to be heard.

Senator Kolstad, Senate District #5, Chester, explained SB 463 establishes the upper limit each county must pay for district court costs. It requires each county to pay up to 3 1/2 mills for their district court costs; will establish a grant-in-need program for district courts for small counties that experience major court costs. Stillwater County will exceed their $40,000 district court budget on one case, the Cox case. The first 3 1/2 mills of their district court costs would be paid by the counties, and the remaining cost would be paid by the state. The money would be used for court costs only, not construction of buildings. This would preclude counties from going broke should they have other big cases.

SENATE BILL 463

Dean Zinnecker, Director of the Montana Association of Counties, commented the district court is the major trial court in the State of Montana. It is a state court, but it is paid for by the county. The state pays the district judges' costs, and over the judges' costs any additional are paid for by the county. At 3 1/2 mills it will cost the state $.5 million based on the 1977 court budgets. The Rosebud trial would have cost $48 per capita, up from $9. There are tremendous inequities in counties when the county is required to pay. Something must be done to protect counties from these major costs.

There were no opponents.

Senator Kolstad closed saying he hoped the committee will take favorable action.

Rep. Dassinger asked how the 3 1/2 mill figure was arrived at. Senator Kolstad said they started with 2 mills and decided to raise it.

Rep. Underdal mentioned the McKenzie trial costs have been an extremely expensive thing in Pondera County and this bill will preclude any such burden in any other county in any one year.

Senator John Manley, District #14, Drummond, sponsor of SB 67, said this bill is called the Sprinkler Bill, but they are trying to change the terminology to "Irrigation Bill" but seem to be stuck with Sprinkler Bill nomenclature. There is a lot of interest in this bill mostly by the people who are changing from flood irrigation and putting new ground into sprinkler irrigation. Taxes on the equipment should be realized through reclassification of the land.

The Department of Revenue is reappraising the ground and then also taxing the irrigation facility in which any ditches or other old-style ways of irrigation

were exempt. When the Department of Revenue sees any technology being used, they jump on the band wagon and tax sprinklers and also the land. This was introduced to rectify that.

SENATE BILL 67

Les Loble, representing a group of farmers and ranchers from the Drummond area as far east as Rosebud County, advised the Department of Revenue instructed their assessors to assess equipment connected with sprinkler irrigation. They do not assess equipment for flood irrigation. Several lawsuits were started and one was tried in Deer Lodge, won, and then it was reversed.

The senate committee struck all the bill after the enacting clause and rewrote it to be sure that paragraph 1 was reenacted. It is just the same bill as it was put into the senate. Other property of like character shall be taxed the same. Page 2, line 1, underground water distribution lines makes sure that the present tax exemption on flood irrigation remains the same.

Line 25 'installed or used on a ranch' wording is used so that sprinkler equipment does not escape the inventory tax. Only when it is installed in the ground does it fall into that category. There are some assessors who still do not tax sprinklers because their assessors did not assess these properties. This would not be taking money away from the counties as tax base. Think how much more the county makes when a progressive farmer or rancher goes to a sprinkler system. The best comparison is summer fallow when it is not irrigated. The Crop and Livestock Reporting Service says about 30 bushels of wheat per acre is average on summerfallow and then it would go up. The difference in the value of a tract if it goes from dryland to summerfallow is from $101 for a 40-acre tract to $297 per acre. Alfalfa dryland was assessed and taxed on a 1-ton per acre basis and the tax would be based on $45 per acre, if a sprinkler is added the tax would be $200 for a 40-acre tract.

The man with the sprinkler system not only pays that, but on the sprinkler system besides. Most farmers and ranchers who use sprinklers are generally the progressive, energetic farmers. The contribution of such a ranch in the local community went way up. One such ranch employed besides the owner, six full-time men and a crew of 30 during harvest. They provide a great many more dollars besides the tax. Many other counties report such benefits brought about by sprinkler irrigation. He hopes for a DO CONCUR committee report.

Terry Murphy, registered lobbyist, Montana Farm Bureau, and WIFE organizations, feels that it is a very important bill. There are millions of acres of land in Montana of dryland and bench lands which are now producing only low-grade pasture which could be better producers. We should get our water put to better use before we lose it. Should be encouraging the rapid growth of that type of farming and not tax it when other types are not taxed.

Mons Teigen, Montana Stockgrowers and Woolgrowers Association, and Montana Taxpayers Association, supports SB 67, as in the Senate and as he did two years ago, and he hopes that this time it receives a Do Pass by this committee.

Mr. Biggerstaff, Montana Conservation Districts, said water is one of the most important issues. Efficient use of that water is one of the most important things. There are a lot of benefits - doesn't think we should have a tax on sprinklers that penalize people who are trying to do a good job.

Alice Fryslie, Montana Cattleman's Association, supported this proposal in the past and do so now.

Pete Jackson, registered lobbyist, stated farmers have taken the same amount of water and doubled their acreage. Then the assessor reassessed. Farmers and ranchers are improving these lands and making resources much more valuable by using this kind of irrigation which requires a heavy financial investment. He supports this bill.

Ross D. Peace, Fairfield, (there were a great many people in from Fairfield) concurs with what the proponents have talked about in this measure. It is not only the cost of the equipment that goes in with sprinklers, it takes more farm machinery which means a better economy in the area where they are used. We are all very much against this so-called double taxation. The land is reclassified to a higher value for taxation purposes and that is a double tax and he doesn't think we should have to pay the tax on the sprinklers themselves. Sprinklers help control sediment from going into the streams; use half as much water on the land he does have. After all, we are after water conservancy. Need this bill to prevent double taxation. See his testimony attached.

Robert A. Ellis, Helena farmer, Helena Valley Irrigation District and for the 280,000 irrigated ranches that the federal government has constructed in the State of Montana, said the supreme court decision did not allude to the taxation of the sprinklers, it was to the point that the legislature did not have the right to exempt other types of irrigation. It covered the added machinery. This is also an increase in taxation.

Tom Asarf, Forsyth, said there are actually two classes of land that are affected by sprinkler irrigation. The old land where better use of water is made, and the higher land that has not been irrigated before. No other way can that land be irrigated other than through sprinklers. This makes for double taxation and are discouraging progressive use of water. He heartily endorses this bill and asks your favorable consideration.

Steve McDonnell, Agricultural Preservation Association, Three Forks, MT, said the increased cost of food today to the consumers is a major concern to almost everybody including farm people, and they know food costs are increasing. Adding a cost to food only stifles other production. There is a very narrow margin - sometimes an extra cost deters the completion of a project which would go on to provide more food, not only for our nation, but for the world. See his testimony attached.

Deon Hager, Fairfield, said those who have never flood irrigated before, and those who have both flood and sprinklers find flood irrigation takes 3 feet of water, and 1 1/4 foot for sprinkler irrigation. They are faced with a shortage of water in their area. Flood irrigation makes for saline seep. From his own knowledge, and from those who are in under irrigation, and those who irrigate, by going from flood to sprinkler, most people do increase production per acre from 10 to 20%. Going from dryland to a sprinkler system increases production from 15-40 bushels per acre.

Donatus A. Kronebusch, Pondera County Canal and Reservoir Co., and himself, Conrad, supports SB 67. See testimony attached.

Rep. Underdal was asked by Don Crider, Conrad, to state that he is in favor of the bill. He is quite extensively engaged in sprinkler irrigation and is opposed to haveing to pay tax on sprinkler equipment.

Dick Flickema, Highline Company, is in the process of developing about 300 acres to irrigation. Have two irrigation permits which have been approved. The investment for sprinkler systems and the pipe is large, and if this bill is passed, could go on. At the present time they have to make the decision of whether to return to summerfallow or go to sprinkler irrigation.

Don Burnham, Helena valley, said he is sprinkling half and flooding half his land. The investment to put in a sprinkler system is $300-400 per acre which is probably more than what most of us paid for the ground originally. Electricity runs from $8-10 per acre and you have to buy your water. This extra taxation might be just the breaking point of whether you go to this kind of system.

Frank Flynn, Hidden Hollow Ranch, Townsend, representing 20 farmers, supports SB 67.

There were many other proponents of SB 67 including David H. Hastings, whose testimony is attached, Wayne K. Plymale, Townsend, Walter T. Madill, Townsend, Ed Nelson, Montana Taxpayers Association, Helena, and a list of persons attending the hearing.

There were no opponents.

Senator Manley closed saying he couldn't add too much to what has been said. One thing that hasn't been stressed - the federal government passed 208. I would say probably within the next 5-6 years, all over the U.S. flood irrigation will no longer be allowed. 208 is a water quality bill and is really something. It was put out by the environmental people in Washington, D.C. I am sure all irrigation will habe to be done by sprinkler - won't allow water to run off a field back into a stream. This could mean a difference between able to do it and not being able to do it. Sprinklers use less than half the amount of water as flood.

It doesn't mention a thing of what the state and counties and local communities gain by someone putting in the development. One man trebled his land through sprinkler irrigation - he pays taxes on much more machinery, on more cattle, on reclassification of his land - maybe paying $5,000 into the community today rather than $500. The fiscal note, if they really wanted to be progressive, would have added to the value, the communities gain rather than what tax base they might be losing.

Questions from the committee -

Rep. Williams asked Mr. Loble: Is it not true that under a law passed in 1975 and amended in 1977 for the first three years after land is converted to irrigation, that the taxable value remains the same with either flood or sprinklers? Mr. Loble said Yes. Senator Manley said in most cases this is not done. The Department of Revenue, unless you know about the allowance

and force them into allowing it, don't give you the three years, Rep, Williams asked whether the Department of Revenue is ignoring the law and farmers don't know about it? In HB 213, sprinkler irrigation equipment is being taxed at a 15% reduction and at the same time have reduced from 13 to 11% classification. He doesn't feel that has a tendency to reduce taxation on small farm equipment.

Senator Manley thinks reducing the sprinkler taxation wouldn't be sufficient to allow development.

Rep. Vinger asked Senator Manley if under flood does that exempt pumps. No.

Rep. Dassinger asked Mr. Loble whether the equipment used for flood irrigation is exempt. The pipe under the ground - stuff that is fixed to the land - is not taxed.

Terry Murphy brought out the fact that the lessening of the tax would be incentive to provide for more irrigation. What is the cost ratio of actual cost of flood irrigation and the tax that is involved -- $300-400 per acre to provide for sprinkler irrigation - how much would taxes be - what is the ratio?

Mr. Burnham put in a sprinkler system 6-7 years ago because of erosion. He has to pay for the water whether it is used or not. Cost at that time was $300 per acre for cost of sprinkler above the ground - for the whole works. That system covered 320 acres and the taxes on that same system was just under $1,000 per year. Has $10 per acre electricity and almost $6 per acre for water, plus cost of a man. Have almost doubled production on the ground and alleviated soil erosion problems that were killing them. At the time of putting that in it cost less than the $400 per acre it would cost now. Buried line is not taxable - they only tax what is above the ground.

Rep. Huennekens asked Mr. Loble if he had the increase in revenue figures since he had listed costs, etc. on a sample farm. He didn't have.

Senator Manley said the taxes on one farm were raised from $2.52 to $23.32 per acre.

Rep. Huennekens said there has been a tremendous increase in the use of sprinkler irrigation despite not taking advantage of the present tax advantage. There will be an even greater increase considering that one problem is the oversupply of small grains. What happens if production is increased - what will happen to prices? Senator Manley said we don't have an oversupply of beef today. If grain is not profitable, farmers will change and put the land into other production.

Rep. Reichert asked how are neighboring state systems taxed? She was told they are exempt - cattle are exempt also.

Mr. Kronebusch commented that putting on water is not making an oversupply of food products. There is a lot of land that is unprofitable without irrigation. Can make a little profit by using systems which get away from saline seep problems. Getting away from flooding and going to continuous cropping, it is necessary to go to sprinkler systems.

Rep. Huennekens remarked that beef prices are cyclical and pretty obviously the more we produce, the lower prices will become. Can only produce as many beets as can be handled by the company.

Rep. Sivertsen reminded that the problem is that to the advantage of the American people, the agricultural people have continued to provide food at the least cost of anywhere. Depression in the cattle market was not just caused by an oversupply of beef but because of government interference. The same is happening in grain today. Can't get rid of the grain because of transportation and government interference. If we are going to keep these farms and make them pay, we have got to continue to increase production and make them profitable. We are not willing to provide a little bit of protection to help save these farmers. Can't make them pay so that is why we have alien ownership and corporation farming.

Rep. Fabrega asked Senator Manley about a taxpayer's valuation going from $2 to $23 per acre. Senator Manley answered that if a non-irrigated farmland was classified at 4A, the assessed value of an acre would be $6.94 and if wild hay land were put under a sprinkler and put up 3 tons to the acre, which would be pretty good for a wild hayland, it would be assessed at $67.60 per acre so you pay quite a jump by installation. If you don't make more money, you couldn't do this. Rep. Fabrega - it increases the valuation by about 10 times. There are tax inequities in the present taxation system. In California everything is buried and that would be exempt in Montana.

Rep. Reichert asked Mr. Peace if you have a small farm and work off the farm, when you figure the cost of the entire operation is it worthwhile? Mr. Peace told her figuring on the entire operation, interest, taxes, etc., it costs about $186 per acre; crops produced bring in about $207 per acre, and that leaves $21. If he didn't have an off-farm job, he wouldn't have much income tax to pay on that amount. He produces 94 bushels of barley and hay at 5 tons per acre. With the costs today, there is no way we can make it pay and reduction of taxes would help.

Rep. Hirsch said machinery needs are increased, and property taxes are paid on them. If you take just dryland prairie, you increase the carrying capacity from one cow to two cows per acre. When you go to an operation like that, the advantages to the county are just overwhelming from the livestock aspect.

Rep. Dassinger thinks if sprinklers are exempt, should exempt flood equipment also. Senator Manley said SB 67 only attempts to reduce taxation on those that are affixed to the land. Rep. Dassinger represents one county that is industrial and the other is farm oriented. One county that is mostly farm has problems because of lack of tax base. What tax should be used to raise more money? Senator Manley thinks the extra production from this ground would be a plus rather than a minus figure. In many counties this hasn't been assessed and taxed.

Rep. Underdal said turning good dryland farm land into irrigated land, what is the difference in taxes when a sprinkler system is installed? How does it compare with the dryland taxes and irrigated taxes? Senator Manley said it makes for a higher assessment on the land and from higher production. Rep. Underdal said the difference between classification of good dryland could basically stay pretty close to the same, and your land would still pay as much taxes as by not taxing the system. Senator Manley said it would pay as much or more. Have to watch that counties do not lose tax base valuations.

HOUSE TAXATION COMMITTEE

46th Legislature

The House Taxation Committee was called to order by Chairman Herb Huennekens at 8:30 a.m., in Room 434, Capitol Building, on April 12, 1979. All members were present. Randy McDonald, staff researcher, was present.

Bills to be considered today will be: SBs 384, 401, 508, 463, 99, 67, 182.

SENATE BILL 384

Representative Fabrega moved to reconsider action on this bill. He said it was intended for Wyoming but goes beyond that.

Chairman Huennekens said it was brought to their attention that it would cost 4 million for the biennium on this bill.

The motion to reconsider passed unanimously.

SENATE BILL 401

Rep. Fagg moved be concurred with.

Rep. Williams moved AERO's suggested amendments which had been presented by Ron Pogue. A copy of these is attached and part of the minutes.

Mr. Pogue responded to a request for information that there has been a committee up until the last time. This amendment is to insure that they use the committee. There are 5 to 7 on the committee and they met twice a year. Now it will be once a year and they will do solicited grants. The only expense will be for those that need expenses. $25 for attending a meeting--it would cost $5,000-10,000 for a million dollar a year program.

The researcher on being asked said there is statutory law on these committees, and it provides for expenses.

Rep. Reichert questioned all the talk on the advisory committee--that is part of the bill as amended. The original bill is to expand the grant money for renewable resources to commercial uses and reduce that which goes for other purposes.

Mr. Pogue explained the reason for taking the restrictions off is that the program has given out demonstration grants for residential and what we need is to get more into industrial systems like wind and methane, etc. There could be some real impacts.

Rep. Reichert asked if this is why the advisory committee would be important as far as vying for these grants.

Mr. Pogue said that is why they would like it mandatory. There could be large proposals from high powered corporations and so there could be more

The researcher explained the amendment would subject the department to the Unfair Practices Act except for the penalty part.

Rep. Fabrega said if we don't adopt this amendment the department is subject to the enforcement and penalty. This is less restrictive language. He moved the amendments.

Mr. Messerly said upon being asked that they have no problems with the amendments.

Question was called and the amendments were adopted. Voting no were Reps. Nordtvedt, Sivertsen, Burnett and Vinger.

Rep. Fabrega moved the bill AS AMENDED BE CONCURRED IN and this motion passed unanimously.

SENATE BILL 67

Rep. Burnett moved be concurred in.

Rep. Harrington said as far as counties are concerned and fiscal impact--hope it won't pass.

Rep. Fagg said he didn't feel you should take one item and exempt it. Everybody pays taxes and these people make tons of money on these irrigation systems.

Chairman Huennekens spoke in opposition. It can be disengaged and moved at any time and used somewhere else. The same applies to an on-line system--you can change the system. Finally, you can get investment tax credit and accelerated depreciation on a sprinkler system. Don't see any difference between sprinklers and trucks and tractors.

Rep. Dassinger said farmers said this would be an incentive. Yet the tax on this is reasonable.

Rep. Williams said he recalled two things from the testimony. Sponsor said irrigated land and the production were taxed for three years on the former level as an incentive to use more sprinkler irrigation. That is a good deduction to start with. Then HB 213 reduces the tax from 13% to 11%.

Rep. Sivertsen said he didn't know where to start. The fact was alluded to that these sprinkler systems can be used other places--they will only cover so much land and there are labor costs involved in moving from field to field. Then comparing the system to a tractor. Taxes will be paid twice--on the sprinkling system and on the increased productivity base. Because of the Supreme Court ruling all irrigation facilities will be taxed--below, on top, and underground. This is not all income--there is one heck of an investment. Think of what irrigation systems do for the economy of the state.

Rep. Nordtvedt said he would support the bill. If we can reduce the taxes on luxury items like country clubs, etc., we can surely give a tax break

to something productive like this.

Rep. Fabrega said he still didn't understand how sprinkler systems were different in its functions than other machinery that tends to increase the productivity of the land you own and travels within that same land--like fertilizer spreaders.

Rep. Sivertsen said the other machinery is not the asset to the land the sprinklers are. You can take the spreader and use it anywhere. Sprinkler systems can be clearly attached to the land.

Rep. Fabrega asked if sprinkler systems should then be considered improvements and taxed as such.

Rep. Lien said a good part of the sprinkler system is appurtenant to the land. The wells are about 40% of the cost. There are designed systems that are part of the land. Fifty cents an acre grassland go to $8 an acre--sprinklers are enormously expensive. This is a good bill. The tax break should be on a permanent basis and not just three years. He said he didn't have any sprinklers on his place.

Rep. Fabrega asked if we pass this bill what do we do about the three year moratorium on incremental--shouldn't have both.

Rep. Williams said the department's policy on taxing underground irrigation will be to exempt it as it has always been. They can't evaluate what is under the ground. He said he had talked to the assessment division. He felt the three year moratorium was a good law.

Rep. Underdal said every time you raise your value you go up another tax bracket. You should be able to pay taxes on the land the same whether irrigated, dry or livestock.

Chairman Huennekens pointed out that if you take dry land that has not been cultivated you pay taxes on the equipment to increase the value of the land. Sprinkler systems have been put in in large numbers despite the fact there has been no tax benefit. So it must be economical to put them in without a tax benefit.

Rep. Harrington said we have talked about equity in taxation. This would give tax relief to just a certain segment of the population. Double taxation--people in the cities are hit by improving their property. He hoped this bill would be turned down.

Rep. Williams said if we go this route the three year moratorium should be taken off. Rep. Lien said he would have no objection to that.

The question on the bill was called on the motion of BE CONCURRED IN and the motion carried 10 to 8. Voting against were Reps. Huennekens, Dassinger, Dozier, Fagg, Gilligan, Harrington, Lien, Williams and absent was Rep. Hirsch. Chairman Huennekens asked if Rep. Hirsch could be permitted to cast his vote as this is an important bill. Permission granted. Rep. Hirsch requested his vote be cast for the bill.

75E
4/12/79

HOUSE TAXATION COMMITTEE

46th Legislature

The House Taxation Committee was called to order at 9:00 p.m., April 12, by Chairman Herb Huennekens, in room 434, Capitol Building, Helena. The meeting was held for the purpose of having an executive session. All members were present as was the staff attorney, Randy McDonald.

SENATE BILL 384 - Rep. Fabrega moved to reconsider the committee's action on SB 384 in order to add some amendments. There were no Noes. Reps. Hirsch, Bertelsen and Nordtvedt were absent.

SENATE BILL 401 - Rep. Fagg moved SB 401 Be Concurred In. Rep. Williams moved amentments offered previously by Ron Pogue be adopted. After discussion, the amendments were not adopted - motion failed. Rep. Vicki Johnson moved that SB 401 Be Concurred In - There were no Noes.

SENATE BILL 508 - Vicki Johnson moved that SB 508 Be Concurred In. Rep. Fagg moved to adopt clean-up amendments. Motion was adopted with No Noes. Rep. Nordtvedt moved the adoption of his amendments. There were No Noes. Motion to recommend SB 508 be concurred in as amended was accepted. Rep. Hirsch was absent. Rep. Lien will carry this bill on the floor.

SENATE BILL 463 - Rep. Vinger moved to amend SB 463 on page 1, line 6 in the enacting clause and strike everything in Section 1, page 1 through Section 1, page 2. Rep. Robbins moved to defer SB 463 until April 13. Motion was accepted.

SENATE BILL 99 - Rep. Fabrega moved to reconsider action taken on SB 99 in order to amend the bill. There were No Noes. He further moved to amend Section 8 with a specific amendment. Reps. Nordtvedt, Sivertsen, Vinger, Burnett voted No on the amendment. Motion to amend was adopted. He further moved that SENATE BILL 99 BE CONCURRED IN AS AMENDED. There were No Noes.

SENATE BILL 67 - Rep. Burnett moved that Senate Bill 67 BE CONCURRED IN This motion carried with a roll call vote of 10-8. Rep. Lien will carry this bill on the House floor.

SENATE BILL 182 - Rep. Vinger moved Senate Bill 182 BE CONCURRED IN. Rep. Fabrega moved that an effective date of July 1, 1979 be amended into the bill since we are in the final quarter already. The title is to be amended also and page 4, section 4. Motion to amend carried with NO NOES. Reps. Robbins, Bertelsen, Dassinger were absent. Rep. Nordtvedt moved to insert on page 2, line 2 "except for additional taxes collected" (Randy will work out proper language) by making a provision whereby an increase in the severance tax will not be transferred to the counties. Motion carried.

Meeting adjourned at 9:50 p.m.

Herb Huennekens

REP. HERB HUENNEKENS, Chairman

Josephine F. Hi

Secretary

SENATE BILL NO. 67

INTRODUCED BY MANLEY, GRAHAM, BOYLAN, CONOVER, GALT

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT IRRIGATION, DRAINAGE, AND SPRINKLER IRRIGATION FACILITIES FROM TAXATION; ~~AMENDING SECTION 15-6-206, MCA;~~ AND REPEALING SECTION 15-7-216, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Refer to Introduced Bill

(Strike everything after the enacting clause and insert:)

Section 1. Irrigation and drainage facilities -- when exempt. (1) All irrigation and drainage facilities, including bonds, rights-of-way, ditches, flumes, pipelines, dams, water rights, reservoirs, and other property of like character shall be taxed as like facilities of the federal and state government; in cases where property taxes apply and where an increase in land value results, such facilities shall be taxed as such land is improved and such land shall be classified for tax purposes as the tax classification law provides.

(2) Sprinkler irrigation systems are exempt from taxation. Such systems include all pipes, hoses, rollers, spray attachments, connectors, pumps, and other items integral to the functioning of a sprinkler irrigation system installed and used on a farm or ranch but exclude underground water distribution lines and other elements of the system sufficiently affixed to land that they become real property.

SECTION 2. REPEALER. SECTION 15-7-216, MCA, IS REPEALED.

-End-

REFERENCE BILL

STATE OF MONTANA

REQUEST NO. 4-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 5, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 67 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act to exempt sprinkler irrigation facilities from taxation; amending section 15-6-206, MCA.

ASSUMPTIONS

It is necessary to use two scenarios because the fiscal impact will depend on the outcome of litigation currently pending in the Montana Supreme Court.

Scenario A. (1) There will be no fiscal impact because all sprinkler systems will be ruled tax exempt by the Supreme Court.

Scenario B. (1) Sprinkler systems will not be declared tax exempt by the Supreme Court and sprinkler systems will continue to be taxed like other property.

(2) There are 3500 private individuals who own sprinkler systems which have an average market value of $15,000 each and are currently classified as Class 8 (13%).

(3) The state levy is 6 mills.

(4) The local government levy is 150 mills (assuming the property is located in rural areas and not in cities and towns).

(5) There will be no fiscal impact in FY 80 because of effective date.

FISCAL IMPACT

	1980	1981
6 mill university levy Scenario A		
under current law	none	none
under proposed law	none	none
6 mill university levy Scenario B		
under current law	none	$40,950
under proposed law	none	0
6 mill university levy - estimated decrease	none	No impact to ($40,950)

(continued on page 2)

an accord sheet

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

STATE OF MONTANA

REQUEST NO. 4-79

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EFFECT ON LOCAL REVENUE

Scenario A. - no change

Scenario B. - Slightly over $1 million in property taxes on sprinkler systems would not be collected in FY 81.

LONG RANGE EFFECTS

Over $1 million in property taxes would not be collected by local governments and over $40,000 would not be collected by the state each year the bill is in effect.

PREPARED BY THE DEPARTMENT OF REVENUE

Richard L. Drum

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: 1/10/79